

# **R. I. STATE BOARD OF ELECTIONS**

## **MINUTES OF MEETING**

**July 5, 2006**

**Acting Chairman Thomas Iannitti commenced the meeting of the Board at 3:17 p.m. with a roll call. A quorum was present and included Acting Chair Iannitti, Commissioners John Daluz, Florence Gormley, Frank Rego and Raymond Xavier. Executive Director Robert Kando, Counselor Raymond Marcaccio, and Supervising Account Richard Thornton were also present.**

**The agenda included appeals from Republican Candidate for the Office of General Treasurer Andrew M. Lyon, III and Republican Candidate for the Office of Secretary of State Sue A. Stenhouse. Both candidates filed for matching public funds (MPF) after the declaration period ended.**

**At Mr. Iannitti's request, Director Kando presented the facts with regard to the Stenhouse matter. Mr. Kando reviewed RI Gen. Law 17-25-19(c) which reads, in part, "that in order to be eligible for matching public funds, each candidate at the time he or she becomes a candidate, as defined in § 17-25-3(2), must sign a statement under oath pledging to comply with the limitations on campaign contributions and expenditures and with all of the terms and conditions set forth in this chapter. Any candidate who fails to file the statement with his or her declaration for office shall be ineligible to**

**receive public funds”.**

**Going forward, the Executive Director offered that the Board of Elections (BOE) supplies the Office of the Secretary of State (SOS) with filing form Notice of Participation – Matching Public Funds (MPF-1). At the request of the BOE and as a courtesy to the State Board and candidate, the SOS staff gives each candidate for general office a packet that contains a copy of the form (MPF-1) that is completed when the candidate declares for office.**

**With regard to the appeal of Ms. Sue Stenhouse: The Board received testimony, written and/or oral arguments from Ms. Stenhouse and her attorney Earl Metcalf. Ms. Stenhouse testified to the following:**

- Ms. Stenhouse tried to get information from the Board of Elections in March of this year with regard to her candidacy and any forms that she was required to file for matching public funds. She was told that she needed to wait and that there would be classes later on to assist the candidates;**
- Ms. Stenhouse was out-of-town when her declaration of candidacy was filed via trusted staff;**

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- no one mentioned the importance of completing an MPF-1 to her staff when the declaration was filed with the Office of the Secretary of State; and
- even if this information were conveyed to the staff, Ms. Stenhouse would not have been able to file the form in a timely manner due to her absence from the state.

(Note: An individual need not file a declaration of candidacy in person. However, to participate in the matching public funds program, the individual must file form MPF-1 at the time his/her declaration is filed.)

Upon listening further to the petitioner, several Members of the Board remarked that Ms. Stenhouse made some valid points.

Going forward, Acting Chair Iannitti asked the attorney for Ms. Stenhouse, Earl Metcalf, to address the Board. Attorney Metcalf offered that the laws are ambiguous and that individuals should be able to get information before declaring for office. He asked that the Board view the (Stenhouse) matter as a case of “excusable neglect”.

There was board discussion on the matter before the Members voted. Commissioner Rego spoke of defects in the law; that is, with regard to what makes an individual a candidate and when does an individual become a candidate. Acting Chair Iannitti would like these questions posed to the legislature. Commissioners Xavier and Daluz remarked that they felt the Board did not have the power to override the statute

as it exists and that it (statute) may need to be changed so that, in the future, other candidates may not encounter the same situation.

At this point, the Acting Chair asked for a motion. With this, Commissioner Rego made a motion to allow Ms. Stenhouse and Mr. Lyon to participate in the matching public funds program and to accept their forms (MPF-1) that were filed after the deadline. Commissioner Gormley seconded the motion with an amendment to include any candidate(s) caught in the same situation. The name “King” was mentioned. The Board agreed to give Mr. King and other general office candidates until Friday (July 7, 2006) to complete and submit an MPF-1. With this, a roll call vote was taken on the motion and amendment. Acting Chair Iannitti and Commissioners Gormley and Rego voted yea; Commissioners Daluz and Xavier voted nay. The motion with its amendment passed 3-2.

Going forward, Executive Director Kando informed the Members that they might need to hold hearings in the future on two matters: the Pawtucket Democratic Representative District City Committee vs. the RI Democratic State Committee with regard to the filling of vacancies; and legislation passed in the 2005 session that limits an individual to one declaration for federal, state or local office.

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**In closing and in reflecting on the Stenhouse/Lyon hearings before the Board, Acting Chair Iannitti remarked that most time stamps do not have a second-hand, only hour and minute. If an individual filed multiple declarations, it might be difficult and/or impossible to determine which declaration was filed first. Having said this, the Acting Chair declared the meeting adjourned at 4:10 p.m.**

**Minutes based on audio tape recording.**

**Submitted by,**

**Frances A. Keating**

**Coordinator, Special Projects**